

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

REX MCCURDY,) No. C 06-2830 JF (PR)
Plaintiff,)
vs.) ORDER DENYING
GARY SIMPSON, et al.,) PLAINTIFF'S MOTION FOR
Defendants.) FILING FEE EXEMPTION

(Docket no. 3)

On April 26, 2006, Plaintiff, a civil detainee pursuant to California's "Sexually Violent Predators Act," ("SVPA") see Cal. Welf & Inst. Code §§ 6600 - 6609.3, filed the instant civil rights complaint pursuant to 42 U.S.C. § 1983. On that same day, the Court sent a notification to Plaintiff that he had not paid the filing fee or filed an in forma pauperis application. The Court provided a copy of the correct form for application to proceed in forma pauperis, along with a return envelope, instructions, and a notification that the case would be dismissed if Plaintiff failed to pay the fee or file the in forma pauperis application and supporting documentation within thirty days.

On May 22, 2006, Plaintiff filed a motion for fee exemption stating that he is not a prisoner, but rather a civil detainee and therefore he should be exempt from paying the

1 filing fee. The Court notes that Plaintiff is not a "prisoner" subject to the provisions of
2 the Prisoner Litigation Reform Act. See Page v. Torrey, 201 F.3d 1136, 1140 (9th Cir.
3 2000). However, the Court will require Plaintiff to submit a non-prisoner in forma
4 pauperis application, which is required of all non-prisoners seeking to proceed in forma
5 pauperis in a civil action in this Court. Accordingly, Plaintiff's motion for filing fee
6 exemption (docket no. 2) is DENIED.

7 The Court will enclose a non-prisoner in forma pauperis application for Plaintiff to
8 complete. Plaintiff shall submit the non-prisoner in forma pauperis application **within**
9 **thirty days** of the date of this order. In the alternative, Plaintiff may pay the \$350.00
10 filing fee. Plaintiff shall include with his payment a clear indication that it is for this case
11 number (C 06-2830 JF (PR)). Plaintiff should note that the question on page four
12 regarding whether he has a bank account should be completed to indicate any funds he
13 has in any trust account maintained for him at the institution where he is committed or
14 detained. Plaintiff must inform the Court of any such account he has at the facility.
15 Failure to submit the in forma pauperis application or pay the filing fee within **thirty**
16 **days** of the date that this order is filed shall result in the dismissal of this action without
17 prejudice.

18 IT IS SO ORDERED.

19 DATED: 10/6/06



20 JEREMY FOGEL
United States District Judge

1 A copy of this ruling was mailed to the following:

2 Rex McCurdy
3 000035-6
4 Coalinga State Hospital
P.O. Box 5003
Coalinga, CA 93210

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